United Nations S/2001/1286

Security Council

Distr.: General
27 December 2001
English
Original: French

Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Mauritius, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

01-72355 (E) 110102 070202

Annex

[Original: English]

Letter dated 26 December 2001 from the Permanent Representative of Mauritius to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instruction from my Government, I have the honour of enclosing the report from the Republic of Mauritius to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001) (see enclosure).

My Government stands ready to provide the Committee with further information as necessary or if requested to do so by the Committee.

(*Signed*) B. **Gokool**
for Jagdish **Koonjul**
Ambassador
Permanent Representative

Enclosure

Report of the Republic of Mauritius on the actions taken by the Government to implement Security Council resolution 1373 (2001)*

Pursuant to Paragraph (6) of Resolution 1373, all Member States are required to submit a report within 90 days of its adoption on the steps they have taken to implement this Resolution.

This is the first such report submitted by Mauritius which lists actions taken or envisaged to be taken in order to fully implement Resolution 1373 (2001). The attention of the Committee is drawn to the fact that Mauritius is currently in the process of drafting the following legislation with a view to combat international terrorism:

(i) The Anti-Terrorism Bill
(ii) The Financial Intelligence Unit Bill
(iii) The Criminal and Related Matters (Mutual Assistance Bill)

The report also highlights the needs identified by Mauritius in respective areas where technical assistance would be required.

Mauritius has always been supportive of all international initiatives designed to combat international terrorism. After the terrorist attacks in the United States of America on 11 September Mauritius pledged along with other members of the United Nations, its full commitment to work together with the international community to eradicate forever terrorism in all its forms and manifestations and to make this world a safer place for future generations. By unreservedly condemning the acts of terror against the USA and by extending its unqualified support to Resolutions 1368 and 1373 adopted on 12 and 28 September 2001 respectively, Mauritius is resolved to fight the scourge of international terrorism.

In order to fulfill its obligations under the existing international and regional instruments in compliance with the provisions of Security Council Resolution 1373 the Government of Mauritius has taken a series of measures aimed at preventing and suppressing terrorist acts, including the financing and preparation of any acts of terrorism.

Preparatory work for implementation of the Security Council Resolution 1373

Immediately after the adoption of Resolution 1373 Mauritius set up a Committee of Senior Officials from relevant Ministries and Department under the Chairmanship of the Ministry of Foreign Affairs and Regional Cooperation with the specific mandate to look into the full and effective implementation of Security Council Resolution 1373 and the relevant international and regional instruments designed to combat international terrorism.

The Committee has devised a plan of action with a view to expediting the adherence to international treaties and eventually to incorporate and implement their provisions at national level.

On 30 October 2001 the Government of Mauritius designated the Ministry of Foreign Affairs and Regional Cooperation as the National Focal Point for information on assistance in connection with matters arising under resolution (1373) and informed the Secretariat of the CTC accordingly.

---

* The annexes to this report are on file with the Secretariat and are available for consultation.

The Government of Mauritius has taken the following measures with a view to complying with the specific provisions of Security Council Resolution 1373.

Operative Paragraph 1

Sub-Paragraph (a)
Prevention and suppression of the financing of terrorist acts

As far as administrative and other regulatory bodies are concerned, the Central bank of Mauritius took the following measures to control transactions of terrorist-related entities.

The Central Bank drew the attention of all banking and deposit taking institutions, money changers and foreign exchange dealers to the provisions of the Resolution 1373 (2001). It requested them to ensure that their institutions and commercial entities are kept free from any abuse that may be made of them by the perpetrators of terrorist acts. The entities and commercial units have been instructed to report, on the basis of confidentiality, any information which would help to trace those involved in international terrorism or in financing and assisting such acts and take appropriate measures against them accordingly.

The banking and deposit taking institutions, money changers and foreign exchange dealers have been provided with, as a first step, a list of institutions/persons suspected of terrorist activities as prepared by the US Government. The list, which is at **Annex I** was issued by the United States of America, is an inexhaustive list subject to necessary modifications.

These institutions have a duty to report to the Central Bank any accounts or transactions those organizations entertain with them. They have also been instructed to seek the approval of the Central Bank before executing any further request for transactions in respect of the companies/entities/individuals on the list.

Mauritius has always followed the principles of transparency and sound banking practices. In this respect and in view of consolidating on the credibility already gained as a viable financial center, Mauritius has passed the Economic Crime and Anti-Money Laundering Act, which aims primarily at criminalising money laundering and other related financial transactions. The Act establishes *inter alia* the Economic Crime Office which is entrusted with the duty to investigate any matter relating to suspicious transactions. **(Copy of the Act is attached at Annex II)**

Sub-Paragraph (b)
Criminalise the willful provision or collection, by any means, directly or indirectly, of funds by their nationals or in their territories with the intention that the funds should be used, or in the knowledge that they are to be used in order to carry out terrorist acts;

Part III of the Act specifically addresses the concerns raised in OP I of Resolution 1373. S.17 of the Act reads as follows:

Money Laundering Offence

(1) Any person who –

(a) engages in a transaction that involves property which is, or in whole or in part directly or indirectly represents the proceeds of any crime; or

(b) receives, processes, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime, where he suspects or has reasonable grounds for suspecting that the

property is derived or realized, in whole or in part, directly or indirectly from any crime, shall commit an offence.

(2) Any bank, financial institution, cash dealer or member of a relevant profession who –

(a) engages in a transaction that involves property which is, or in whole or in part directly or indirectly represents the proceeds of any crime or

(b) receives, possesses, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is, or in whole or in part directly or indirectly represents the proceeds of any crime,

and who fails to take such measures as are reasonably necessary to ensure that neither it nor any service offered by it, is capable of being used by a person to commit or to facilitate the commission of any act of money laundering shall commit an offence.

(3) Notwithstanding section 109 of the Criminal Code (Supplementary) Act, any person who agrees with one or more other persons to commit any act specified in subsections (1) and (2), shall commit an offence.

(4) For the purposes of subsections (1), (2) and (3), references to a crime shall be deemed to include references to any act or omission which occurred outside Mauritius which, had it taken place in Mauritius, would have constituted a money laundering offence or any other crime.

(5) Any person may be convicted of a money laundering offence under this section notwithstanding the absence of a conviction in respect of a crime which generated the proceeds alleged to have been laundered.

(6) Any person may, upon a single information or upon a separate information, be charged with and convicted of both the offence of money laundering and of the offence which generated the proceeds alleged to heave been laundered.

(7) In any proceedings against a person for an offence under this section, it shall be sufficient to aver in the information that the property is, in whole or in part directly or indirectly the proceeds of a crime, without specifying any particular crime, and the Court, having regard to all the evidence, may reasonably infer that the proceeds were in whole or in part directly or indirectly the proceeds of a crime.

Money laundering and other associated offences are crimes punishable by a fine not exceeding 2 million rupees ($70,000) and by penal servitude.

Sub-Paragraph (c)
Freezing of assets

Notwithstanding the fundamental right to protection from deprivation of property as contained in S (8) of the Constitution of Mauritius, the national legislation provides for the temporary deprivation of property by way of attachment, freezing of accounts and assets at banks and financial institutions for commission of serious offences punishable by law.

In respect of the above, Part V, Section 25 of the Economic Crime and Anti-Money Laundering Act provides as follows:

(1) Where a person is charged or is about to be charged in any Court with a money laundering offence or any economic offence, the Supreme Court may, on an application by the Director of Public Prosecutions, make an order, subject to such conditions as to the duration of the order or otherwise as the Court deems fit –

(a) attaching in the hands of any person named in the order all moneys and other property due or owing or belonging to or held on behalf of the accused; and

(b) prohibiting the accused or any person acting on his behalf or any person named in the order from transferring, pledging or otherwise disposing of any money or other property so attached.

(2) The Supreme Court may, in respect of an order under subsection (1), specify moneys or salaries, wages, pensions or other benefits that shall be paid to or received by the accused indicating the source, manner and circumstance of payment or receipt.

(3) In making an order under subsection (1), the Supreme Court may authorize –

(a) the payment of debts incurred in good faith due to creditors of the accused, before the request for the order was made by the Director of Public Prosecutions;

(b) the sale, transfer or disposal of any property by the accused where the Supreme Court is satisfied that such sale, transfer or disposal is necessary in order to safeguard the property rights of any other person claiming an interest in the property.

(4) The Supreme Court may appoint the Official Receiver of the Supreme Court or any suitable person to manage the assets of the accused under the supervision of the Supreme Court.

(5) An order under this section shall take effect forthwith and the Director of Public Prosecutions shall –

(a) cause notice of the order to be published in the next issue of the Gazette and in at least 2 daily newspapers published and circulated in Mauritius; and

(b) give notice of the order to –

(i) all notaries;
(ii) banks, financial institutions and cash dealers; and
(iii) any other person who may hold or be vested with property belonging to or held on behalf of the accused.

(6) An order under this section shall, subject to any condition to the contrary imposed under subsection (1), remain in force –

(a) until the Director of Public Prosecutions decides not to proceed with a charge or intended charge under subsection (i);

(b) until the final determination of the charge under subsection (1); or

(c) in the event of a conviction, until an order for forfeiture is made by the Court under section 18(2) or any proceedings relating thereto are concluded.

(7) Where an order under this section ceases to have effect or is revoked, the Director of Public Prosecutions shall cause notice to be published in the *Gazette* and at least 2 daily newspapers published and circulated in Mauritius.

(8) Any payment, transfer, pledge or other disposition of property made in contravention of an order made under this section shall be void.

(9) In this section "accused" means a person who is charged or is about to be charged with money laundering or any economic offence.

Sub-Paragraph (d)

Short of a comprehensive enactment for the prevention of Terrorism, the existing National legislation makes provision for the prohibition of activities listed in the above sub paragraph. These are as follows:

Preventive Measures

Economic Crime and Anti-Money Laundering Act
Part IV Section 20
Limitation of payment in cash

(1) Notwithstanding sections 30 and 31 of the Bank of Mauritius Act **(Relevant Extracts at Annex III)** but subject to subsection (2), no person shall make or accept any payment in cash in excess of 350,000 rupees (# US$ 12,000) or an equivalent amount in foreign currency or such other amount as may be prescribed.

(2) Subsection (1) shall not apply to an exempt transaction.

Part IV Section 21
Obligations of banks, financial institutions, cash dealers and members of relevant professions

(1) Every bank financial institution, cash dealer or member of a relevant profession shall take such measures as are reasonably necessary to ensure that neither it nor any service offered by it is capable of being used by a person to commit or facilitate the commission of a money laundering offence.

(2) Without limiting the generality of subsection (1), every bank, financial institution or cash dealer shall –

(a) verify, in such manner as may be prescribed, the true identity of all customers and persons with whom they conduct transactions;

(b) keep such records, registers and documents as may be required under this Act or any regulations made under this Act;

(c) upon a Court order, make available such records, registers and documents as may be required, and

(d) forthwith report every suspicious transaction.

(3) Every member of a relevant profession shall forthwith report every suspicious transaction.

(4) Nothing in subsection (3) shall be construed as requiring a law practitioner to report any transaction of which he has acquired knowledge in privileged circumstances unless it has been communicated to him with a view to the furtherance of a criminal or a fraudulent purpose.

(5) Where it appears to the Bank of Mauritius that any bank or cash dealer, subject to its supervision, has failed to comply with any requirement imposed by this Act and any regulations made under this Act on the bank or cash dealer and that such failure is caused by a negligent act or omission or by a serious defect in the implementation of any requirement under the Act or the regulations, the Bank of Mauritius may, in the absence of any reasonable excuse –

(a) in the case of a bank, proceed against it under section 7 or 8 of the Banking Act 1988 **(Annex IV)** on the ground that it is carrying on business in a manner which is contrary to the interests of the public;

(b) in the case of a person carrying on deposit-taking business, cancel its authorization under section 13A of the Banking Act 1988; or

(c) in the case of a cash dealer, inform the Minister to whom responsibility for the subject of finance is assigned that it has reason to believe that the cash dealer is carrying on business under the Foreign Exchange Dealers Act 1995 **(Annex V)** in a manner which is not conducive to the orderly operation or development of the foreign exchange market in Mauritius.

(6) Where it appears to the Bank of Mauritius that any financial institution has refrained from complying or negligently failed to comply with any requirement of this Act or any regulations made under this Act, it shall refer the matter to the regulatory body which may take action against the financial institution under any enactment empowering it so to do.

(7) Where it appears or where it is represented to any disciplinary body that any member of a relevant profession over which it exercises control, has refrained from complying or negligently failed to comply with any requirement of this Act or any regulations made under this Act, the disciplinary body may, under any enactment empowering it so to do, take action against the member for professional misconduct.

Part IV Section 22
Lodging of reports of suspicious transactions

Please Note that Director hereunder refers to the Director of the Economic Crime Office

(1) Every report under section 21(2)(d) or (3) of Act shall be lodged –

(a) in the case of a bank, financial institution or cash dealer, with the Bank of Mauritius;

(b) in the case of a member of a relevant profession, with the Director.

(2) For the purposes of this section, every report shall include –

(a) the identification of a party or parties to the transaction;

(b) the amount of the transaction, the description of the nature of the transaction and all the circumstances giving rise to the suspicion;

(c) the business relationship of the suspect to the bank, financial institution, cash dealer or member of relevant profession, as the case may be;

(d) where the suspect is an insider, any information as to whether the suspect is still affiliated with the bank, financial institution, cash dealer or member of the relevant profession, as the case may be;

(e) any voluntary statement as to origin or source of the proceeds;

(f) the impact of the suspicious activity on the financial soundness of the reporting institution or person; and

(g) the names of all the officers, employees or agents dealing with the transaction.

Part IV Section 23
Consideration of reports of suspicious transactions

Notwithstanding sections 39 and 39A of the Banking Act 1988 or any other enactment, where the Bank of Mauritius receives a report under this Part, it shall consider the report and where the report and any information available gives rise to a reasonable suspicion that a person may have committed, is committing or is about to commit an offence which the Director has power to investigate, it shall refer the report to the Director together with any such information as may appear to it to be necessary to assist an investigation into money-laundering or any economic offence.

Other Measures:

The Ministry of Economic Development, Financial Services and Corporate Affairs has already initiated action as regards the preparation of the Financial Intelligence Unit Bill. Such a Unit will allow for rapid exchange of information and thus assist the Government to combat inter-alia money laundering and address concerns of financing of terrorism.

The Financial Services Commission (FSC) has gone through its data base to search for any links with any name published in the Executive Order and by international media, professional firms, web-sites (FBI, State Department, UK's Financial Services Authority, Bank of England and the UN etc.).

The FSC has urged professional associations in the financial services industry to conduct appropriate checks on their files and records and is relaying to them the latest information and conduct of on-going checks. The FSC has not found any trace of terrorist related money in Mauritius. However, investigation is being carried out on other names provided for in the Executive Order 32224 and in the list provided for by the Sanctions Committee on Afghanistan on implementation of Resolutions 1267 and 1333.

Copies of UNSC Resolutions have also been circulated to all stock broking companies and the Stock Exchange of Mauritius and the Central Depository System for appropriate action and have been requested to inform of steps taken to implement the Resolutions. In accordance with the Central Depository and Settlement Company Rules and Procedures, all Stock Broking Companies have to ascertain a client's identity when opening a Securities Account.

Operating Paragraph 2 (a)

As mentioned above, the Government of the Republic of Mauritius will be introducing the Anti-Terrorism Bill in the National Assembly shortly. This new Act will make provisions for the prevention of, and for coping with, terrorist activities and for matters connected therewith.

However current legislation that indirectly deal with offences related to terrorism are:

(i) The Criminal Code **(Annex VI)**
(ii) The Criminal Code (Supplementary) **(Annex VII)** and
(iii) The Firearms Act **(Annex VIII)**

Operative paragraph (2), (b), (c), (d), (e), (f)

The Anti-terrorism Bill will be re-inforced by the proposed Criminal and Related Matters (Mutual Assistance) Bill which is currently subject of debate at the National Assembly. The Bill will provide for the widest range of international cooperation to be given and received by Mauritius promptly and to the fullest extent possible, in investigations, prosecutions and other proceedings concerning serious offences.

At the regional level, Mauritius is giving due consideration to the signature and ratification of the OAU Convention on the Prevention and Combating of Terrorism adopted by the OAU Heads of State and Government in Algiers in 1999. Mauritius is also Member of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO) and has signed in August 2001 the SARPCCO Agreement on Cooperation and Mutual Assistance **(Annex IX)** in the field of Crime Combating. The Agreement provides for sharing regional information and intelligence on organized crime and the endorsement of a Regional Organised Counter-Crime Intelligence Sharing System.

Assistance to Foreign States is also provided for in the Economic Crime and Anti-Money Laundering Act (Part VI).

Equally important, Mauritius has in August 2001 signed the SADC Protocol on Politics, Defence and Security Cooperation **(Annex X)** and the SADC Protocol on the Control of Firearms, Ammunition and Other Related Materials in the SADC Region **(Annex XI)**. The main objective of this Protocol is to provide mechanisms which will assist Member-States to promote peace and security in the region and guide SADC Member States in their collaboration on matters of peace and security and to prevent, combat and eradicate illicit manufacturing of arms, ammunition and other related materials and promote and facilitate cooperation and exchange of information and experience in the region and cooperate at regional and international levels on matters of small arms and other related materials respectively.

The Extradition Act **(Annex XII)** and the Deportation Act **(Annex XIII)** in Mauritius offers the opportunity for offenders to be extradited. Moreover the Police Department is also linked to Interpol and information related to terrorists are circulated between Interpol Member States. Our Membership of the Commonwealth provides for greater international cooperation, strengthening of national, regional and international legal frameworks to combat terrorism and an important role can be played by Member-States through the Commonwealth Schemes for mutual assistance to counter crime and terrorism.

Given its geographical specificity, Mauritius does not have border controls. However, immigration controls are performed at two points of entry and exit, namely: SSR International Airport, and Port Louis Harbor.

Moreover, the National Coast Guard carry out surveillance patrols at their different posts around the island. Various sea passes are also under control.

The Immigration services have tightened control at the entry and exit at the airport and seaport by profiling passengers on entry and monitoring their movements. All the travel and other documents are scrutinized and all passengers are examined thoroughly to prevent movement of terrorists.

The address and identity of applicants for Passports, Certificates of Identity and travel Documents are verified by the Police of the Locality where the applicants reside before their issuance and visible and invisible security features are incorporated inside the pages of the passport to prevent forgery, tampering etc.

Operative Paragraph 3, (a) (b) and (c)

Relevant Ministries and Departments have been requested to identify the type of technical assistance needed for thorough implementation of Resolution 1373 and the International and Regional conventions given the wide ranging strategies would be imperative to combat international terrorism in all its forms and manifestations.

(1) The Customs Department has informed that it lacks the necessary expertise and equipment to detect weapons, small arms, technical parts, radioactive materials and biological weapons. In this context, the Customs Department has requested for technical assistance viz Training by Experts of its Officers in the detection of the above-mentioned materials and handling of the detection Equipment. The Customs department has also expressed need for scanners and related equipment that can detect not only arms and dangerous drugs but also radioactive and bio-terrorism materials. There is a current project to equip the department with a vehicle mounted with scanning equipment but it is still at a tender stage.

(2) The State Law Office has also informed of need for technical assistance in the formulation of appropriate legislations over and above existing laws that deal indirectly with offences related to terrorism.

(3) Whilst Member-States are reporting on current and expected implementation of the UNSC resolutions related to Terrorism, it is of view that renowned institutions such as the Centre for International Crime Prevention could be involved in the training of National Focal Points and relevant Ministries/departments from Member-States for the fight against terrorism.

Operative Paragraph 3 (d)

As stated above, a Committee of Senior Officials has been set up to monitor implementation of UNSC Resolutions and will *inter alia* look into the implementation of Conventions (International and Regional) relating to the combating and Prevention of International Terrorism. On the 11th of November 2001 the Rt. Hon. Prime Minister of the Republic of Mauritius signed the International Convention for the Prevention and Suppression of Financing of Terrorism in New York on the margins of the 56th UNGA. (Status of Signing/Ratification and Accession to International Conventions related to Terrorism is at **Annex XIV.**

Annexes

I. United States Government list of persons/institutions suspected of terrorist activities

II. Economic Crime and Anti-Money-Laundering Act

III. Bank of Mauritius Act (relevant extracts)

IV. Banking Act, 1988

V. Foreign Exchange Dealers Act, 1995

VI. Criminal Code

VII. Criminal Code (Supplementary)

VIII. Firearms Act

IX. SARPCCO Agreement on Cooperation and Mutual Assistance

X. SADC Protocol on Politics, Defence and Security Cooperation

XI. SADC Protocol on the Control of Firearms, Ammunitions and Other Related Materials in the SADC Region

XII. Extradition Act

XIII. Deportation Act

XIV. Status of signing/ratification and accession to international conventions related to terrorism